

## **REMARKS**

The Office Action mailed on October 19, 2007 (the "Office Action") has been carefully reviewed. The Applicants gratefully acknowledge the Examiner's rescission of the final office action, the allowance of the amendment to paragraph 0006, and the consideration of claim 24. It is respectfully submitted that the present invention is patentably distinguishable over the cited references. Reconsideration of this application, in view of the amendments and remarks, is respectfully requested.

### **Summary of Teleconference With Examiner**

A teleconference between the Examiner, Harish T. Dass, and one of Applicants' counsel, Richard G. Miller, occurred on January 4, 2008. The Applicants' gratefully appreciate the Examiner taking the time to discuss the following two subjects: (1) whether Sharp KK, Japanese Published Patent Application JP 2003-309755A (hereinafter "Sharp"), pre-dated Applicants filing date and (2) whether a response was needed for the Examiner's note. The Examiner agreed with Applicants that the filing date of Sharp was after Applicants' filing date. Thus, Sharp is not a proper reference as further discussed herein. The Applicants' counsel understands that no formal response is required to the Examiner's note. However, the Examiner indicated that the examples in the note were for illustrative purposes and, if it were understood correctly, the Examiner will consider using these examples if a future Office Action is required. Other than the agreement regarding Sharp's priority date, no other agreements or commitments were made during the teleconference.

### **Summary of the Amendment**

Claim 24 was amended to remove the Examiner's rejection. The amendment is discussed herein. Support for the amendment is found in the claim as filed.

### **Summary of the Rejection of the Claims**

In the Office Action, the Examiner rejected claim 24 under 35 U.S.C. § 112, second paragraph, as being indefinite and failing to point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-7 and 18-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan et al., U.S. Published Application No. 2005/0021466 (hereinafter “Buchanan”) in view of Sharp.

Claims 11-17 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green et al., U.S. Patent No. 5,602,936 (hereinafter “Green”) and Sharp.

Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan and Sharp as applied to claim 7 above, and in further view of Green.

The Applicants respectfully traverse these rejections, and in view of the following arguments and amendments, request reconsideration and withdrawal thereof.

### **Applicants’ Priority vs. Sharp’s Priority**

Applicants respectfully assert that Sharp does not have a priority date prior to theirs. Applicants closely reviewed the Japanese Patent and Utility Model Database and discovered that Sharp appears to have an April 15, 2002 filing date. Applicants’ filing date is January 11, 2002. Additionally, a search of the ESP@CENET database and the Japanese Patent and Utility Model Database did not produce any reference that Sharp was ever published in English beyond the abstract. Therefore, based upon the January 4, 2008 teleconference agreement between the Examiner and Applicants’ counsel, the Applicants respectfully submit that Sharp is not a proper prior art reference since it was filed after Applicants’ currently pending application. A printout

of a webpage from the Japanese Patent and Utility Model Database showing the priority date of Sharp is attached to this Office Action response.

**Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph**

The Applicants respectfully traverse the Examiner's rejection of claim 24 under 35 U.S.C. § 112, second paragraph. However, in an effort to advance the pending application, the Applicants have amended claim 24 to delete the reference to "systems and methods." The amended claim should now be in a condition for allowance. Thus, the Applicants respectfully request a withdrawal of the rejection of claim 24 under 35 U.S.C. § 112, second paragraph and an allowance of the same.

**Rejection of the Claims Under 35 U.S.C. § 103(a)**

**Buchanan In View of Sharp**

Applicants respectfully traverse the Examiner's rejection of claims 1-7 and 18-22 as being unpatentable over Buchanan in view of Sharp. Because Applicants' priority date pre-dates Sharp, Buchanan's limitations do not rise to meet the *prima facie* requirements for an obviousness rejection. The Examiner and Applicants apparently agree that Buchanan does not disclose a "real-time" or "concurrent" transmission, communication or exchange of digital image and/or digital data record with a second site as recited in independent claims 1, 2, 3, 7, 18, and 22. (Office Action, para. 4, re: claims 1, 2, 3, 7, 18, and 22). Thus, in view of this fact, Applicants respectfully submit that independent claims 1, 2, 3, 7, 18, and 22 are in a condition for allowance as well as the claims that depend therefrom. Therefore, the Applicants respectfully request the reconsideration and withdrawal of the rejection of pending claims 1-7 and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Sharp.

### **Buchanan In View of Green and Sharp**

Applicants respectfully traverse the Examiner's rejection of claims 11-17 and 23 as being unpatentable over Buchanan in view of Green and Sharp. The arguments above regarding Sharp are incorporated herein. Thus, in view of the failure of Buchanan in combination with Green to disclose a "real-time" or "concurrent" transmission, communication or exchange of digital image and/or digital data record with a second site, the Applicants respectfully assert that the *prima facie* case of obvious has not been met. Applicants respectfully submit that the combination of Buchanan in view of Green fails to disclose a plurality of image exchange servers.

Thus, in view of the foregoing arguments, Applicants respectfully submit that independent claims 11, 13, 16, and 23, and the claims that depend therefrom, are in a condition for allowance. Therefore, Applicants respectfully request the reconsideration and withdrawal of the rejection of pending claims 11-17 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green and Sharp.

### **Buchanan and Sharp In View of Green**

Applicants respectfully traverse the Examiner's rejection of claims 8-10 as being unpatentable over Buchanan and Sharp, as applied to the rejection of claim 7 above, in view of Green. The Applicants respectfully submit that claims 8-10 are in an allowable condition since they depend from an allowable claim. The Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan and Sharp in view of Green

In view of these arguments, Applicants believe claims 1-23 are in a condition for allowance. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 1-23 under 35 U.S.C. § 103(a).

### **Examiner's Concluding Note**

The Examiner indicated that Applicants should consider that Buchanan's paragraph 31 discloses that "the invention may be practiced in network computing environments with many types of computer system configurations, including personal computers, hand-held devices, multi-processors systems, microprocessor-based or programmable consumer electronics, network PCs, minicomputers, mainframe computers, and the like." The Examiner also noted that Buchanan's paragraph 51 discloses that "FIG. 4 depicts the central site processor and the various processes and interfaces associated therewith, in accordance with a preferred embodiment of the present invention." The Examiner stated that "it is old and known to one skill[ed] in the art of programming, [e]specially real time control/process programmers, that in multiprocessor/multi-thread systems the tasks are done concurrently (inherent)." The Examiner used the example of a PC user sending an email while being able to "simultaneously" download or print a document. The Examiner also used the example of a highway collection tool system that senses the vehicle profile while simultaneously sensing the arrival of the vehicle without any "interactive back and forth the way applicant has described." The Examiner concluded with a statement that "multi-threaded systems can perform one or more tasks at the same time." Applicants respectfully disagree with the Examiner's note and the assertion that it is known to those skilled in the relevant art. Additionally, none of the examples or assertions by the Examiner is applied to any particular claim. As such, Applicants are put at a disadvantage to properly rebut the example or assertions.

Specifically regarding the first example, Applicants respectfully assert that the PC user must sequentially initiate the sending of an email and downloading or printing of a document. In this instance, there is no simultaneous action of sending an email and simultaneously printing or

downloading. Once the sequential initiation of the two separate actions occurs, then the processor may have some sequential alternating between the two separate processes. However, since there is no explicit reference to rebut against a specific claim, Applicants respectfully assert that the first example is not relevant to any of the claimed subject matter and that the skilled artisan readily understands that to send an email and either download or print a document, requires the PC user to perform sequential tasks which the PC treats sequentially.

Specifically regarding the second example, the Examiner's statement is not applied to the claims in a manner which permits rebuttal. Additionally, the reference does not specifically identify a given process relevant to a particular claim. Thus, the Applicants are unable to address the example.

Specifically regarding the Examiner's final statement that "multi-threaded systems can perform one or more tasks at the same time," the Examiner has failed to provide specific references applied to specific claims. As such, the Applicants respectfully point out that they are at a disadvantage and unable to properly rebut the Examiner's statements.

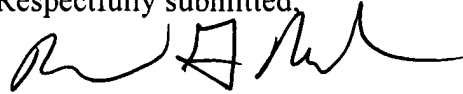
### **Conclusion**

In view of the foregoing amendments and for the foregoing reasons, Applicants submit that the Examiner's rejection of claims 1-24 should be withdrawn, and respectfully request the allowance of claims 1-24.

This is intended to be a complete response to the Office Action mailed on October 19, 2007.

January 10, 2008  
Date

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Richard G. Miller', with a stylized, looped flourish at the end.

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